

MINUTE ENTRY

8:25 a.m.

UNITED STATES OF AMERICA -v- PEDRO Q. BABAUTA

PRESENT: Hon. Alex R. Munson

Sanae Shmull, Court Reporter

K. Lynn Lemieux, Courtroom Deputy

Timothy Moran, Assistant U. S. Attorney

G. Anthony Long, Attorney for Defendant

Pedro Q. Babauta, Defendant

PROCEEDINGS: JURY TRIAL - Day Five

Government by Timothy Moran, AUSA. Attorney G. Anthony Long was present on behalf and with defendant, Pedro Q. Babauta. Also present were Gary Guerra Special Agent for the EPA/Criminal Investigation Division. Twelve regular jurors and two alternates were present.

Defense called witness at 8:27 a.m:

PAMELA A. MATHIS. (CUC - Management Specialist). DX. Reference to Ex. 25 and Ex. F. Attorney Long offered Ex. F into evidence; Government objected. Defense laid more foundation. Attorney Long again offered Exhibit F into evidence; no objection. Court so ordered. At 9:00 a.m. Government began CX of witness. Witness was excused at 9:10 a.m.

Parties stipulated to the admission of Ex. #22 for limited purposes and this was read into the record. Court so ordered.

Defense rested their case at 9:15 a.m.

Jurors were excused from the Courtroom at 9:15 a.m.

Defense moved for Acquittal as a Matter of Law. Government argued against the motion.

Court, after hearing all argument, DENIED the motion.

Defense moved to not exclude jury instruction on circumstantial evidence; Government argued against it. Defense moved to not exclude lay opinion instruction; Government argued. Defense moved to include Murphy Instruction; Government argued. Defense moved against instruction on Jurisdiction of the United States EPA; Government argued. Discussion was had on inclusion of one more jury instruction; Page 8.1.

Court recessed at 9:45 a.m. and reconvened at 10:07 a.m.

Jurors were brought into the Courtroom.

Government began opening argument at 10:08 a.m. and finished at 10:37 a.m.. Defense began closing argument at 10:37 a.m. and concluded at 11:18 a.m. Government began closing argument at 11:18 a.m. and finished at 11:33 a.m.

Court excused the jurors from the Courtroom at 11:33 a.m.

Court had discussion with counsel regarding jury verdict forms and jury

instructions.

Court recessed at 11:35 a.m. and reconvened at 11:55 a.m.

Court began jury instruction at 11:55 a.m. and concluded at 12:25 p.m.

Court excused alternates at 12:35 p.m.

Bailiff's were sworn and ordered to take the jurors in charge.

Jurors were given the exhibits, verdict form, indictment, and jury instructions and were escorted into the jury deliberation room.

Court recessed at 12:35 p.m.

Jurors were escorted to lunch by the U.S. Marshal at 12:35 p.m. and returned to continue their deliberation at 2:00 p.m.

At 4:00 p.m. Court reconvened with all parties present. Court advised the parties that a question had come out by note from the jurors regarding the certification of DEQ. It was stipulated between the parties what the answer would be and the Court responded to the jurors in writing. At 4:10 p.m. Court requested the jurors be brought into the Courtroom. Court admonished the jurors not to talk with anyone about the case; not to watch any TV or read any newspaper accounts and to return to the Court on Monday, June 13, 2005 at 8:00 a.m. to continue deliberation.

Adjourned 4:10 p.m.

; [KLL EOD 06/10/2005]